

**CONSERVATION COMMISSION
MEETING MINUTES
February 15, 2007
Beginning at 7:30 p.m.
Room 209, City Hall**

MEMBERS PRESENT: I. Wallach, Chair; S. Lunin, R. Matthews,
N. Richardson; Associate: J. Hepburn

MEMBERS ABSENT: D. Dickson, R. Freed, A. Green; Associate: D. Green

MEMBERS OF THE PUBLIC: See attached sign-in sheet.

1. Dolan Pond Conservation Area: Discussion with NNHS student re invasive vegetation project

Report: Blake Rosenbaum is an AP Bio student at Newton North H.S. and wants to do a project at Dolan on invasive plants (Japanese knotweed). He was unable to find the meeting last month, so is back on track for this month.

Meeting: This student was a no-show again this month. Staff will contact him to determine whether or not he wishes to do this project.

2. Cheesecake Brook between Eddy St. & Watertown St: Public Hearing on Notice of Intent for greenway/park improvements along Cheesecake Brook

Report: This is a CDBG project with cooperation of DPW. The project will make improvements to the now-inaccessible greenspace on both sides of Cheesecake Brook. The attached project description is thorough. Currently most of the sideslopes are steep and grassed with routine mowing by Parks & Rec. The sideslopes closer to Watertown Street are wilder, no lawn, and provide some habitat in an area where there is extremely limited habitat, but these will be developed in Phase 2 which is not on the table just now. The resource areas are Bank and Buffer Zone. This section of the brook is not perennial, so there is no Riverfront Area. DEP issued a number without comment.

Some of the stone banks have been undercut and should be repaired prior to heavy equipment doing grading work above them. In addition all of the stormwater goes from the street directly down into the brook via paved swales and erosion channels – the street drainage is a direct shot into the brook – it's a system in need of serious work. I checked w/DPW on how/when they intend to do the drainage work prior to this project going forward and found that they don't have it on their work list for this summer when CDBG wants to go forward.

Meeting: Dee Spiro, a CDBG Planner, noted that this is one of their target neighborhoods and after a series of public meetings, the neighborhood priority was for an improvement project along the brook. Site amenities such as new fencing, benches, paths, a classroom area, trees and shrubs, and the removal of invasives are proposed, with removal of woody material from the brook walls. She is aware that they need to address

stormwater issues which are major prior to going forward. The plantings will be maintained by an enthusiastic citizens group once complete.

Ira Wallach asked if the project is ahead of itself in that there are no plans to upgrade stormwater management. Spiro responded that the grant needs to be spent soon. Norm Richardson said that he hopes for innovative approaches in terms of stormwater polishing. Spiro noted that their consulting engineer is looking at various options. Members indicated their wish for additional information to address questions on where the sand is coming from, what plants are to be used, and what stormwater options are being proposed. They hope for a comprehensive solution to the issues associated with this very fine neighborhood project. The meeting was continued to 3/22/07 to receive this additional info prior to action.

3. Bridge Street: Public Hearing on Request for Determination of Applicability for bridge resurfacing over the Charles River

Report: This is a Town of Watertown/MHD project to resurface the Bridge Street bridge crossing the Charles River. It will involve coldplaning and resurfacing, new sidewalks and driveway aprons and catch basin replacement with deep sumps where necessary. They propose silt sacks in area catch basins and hay bales and silt fence as needed. This is a 'limited project' in Riverfront and Buffer Zone. This is the same project you saw 4 or 5 years ago, but they didn't do it, so their Determination expired.

Meeting: Steve Tyler from Bayside Engineering, presented the project. Norm Richardson inquired re improvements on the Newton side and Tyler responded that none is planned as all of the real work is in Watertown. The vote was 3:0:1 (Richardson) to issue a negative Determination.

4. 20 Rogers Street (rear): Public Hearing on Notice of Intent for repair & stabilization of rear retaining wall by Newton DPW adj. Crystal Lake

Report: This is a DPW project to repair and stabilize the failing retaining wall on Pat Hannon's property so that the bathing beach at Crystal Lake can resume normal operations. The project will involve the removal of approx. 4 – 4.5 feet of the wall, grading back at a safe slope behind the remaining 3 – 3.5 feet of wall. The work is in accordance with the recommendations of a geo-technical engineering report and will only make the wall safe and stable, not enlarge or change it except for its height. Once the work is completed, the bathing beach will resume normal operations. (See also Commissioner Towle update letter re the wood retaining wall, below).

Re the Wetlands Regs, there are no resource areas present as noted in the Epsilon report during the hearings on the floats last year. There is no bank, the beach is artificial and the annual MHW does not reach the wall. Since Land Under Water does not have a buffer zone, there are no resource areas. All work will be done from above the wall – not on the beach unless it's somebody standing on the beach – no equipment is proposed.

Re Ch. 91 Waterways Regs, the High Water Mark has not been established, but since all work will be done from above, and the toe of the wall will not be changed, no permit will be required. (See old map as part of packet for former HWM.)

In reviewing the NOI regs, I find this case especially interesting as NOIs are supposed to be signed by the landowner except for work proposed on Great Ponds or Commonwealth tidelands. Hannon did not sign the NOI which was submitted by DPW on

behalf of the City and he is quoted in the newspaper as objecting to the project. It is also interesting that the court decree of 1962 allows the City to use a majority of the beachfront on Hannon's land (copy enclosed FYI). Crystal Lake is a Great Pond and everything up to the High Water Mark is subject to Ch. 91. The work on the wall is higher than the High Water Mark, but the work is being done to make the swimming and bench area (part of the Great Pond) safe so it can be used. The City's improvements (benches) were noted on the plan dated 1962 accompanying the decree. The decree and benches pre-date the wetlands regulations.

Meeting: Commissioner Bob Rooney discussed the proposed work and noted that the owner has been notified twice regarding the unsafe condition of the wall. This is the City's attempt to get the wall fixed by DPW or the homeowner.

City Solicitor Dan Funk indicated that if the homeowner does not do the work, the City has the opportunity to remove the wall or make it safe. Under MGL Ch. 143, the Commissioner of Inspectional Services can declare the wall to be unsafe and give the owner 24 hours to make it safe or secure. If the owner does not do the work, an independent committee (comprised of Fire Chief, City Engineer and disinterested person) meets to decide whether the wall is dangerous, and, if they find that it is dangerous, the City can go on to the owner's property to make the repairs. The public's rights to use the property below the wall need to be preserved, as does public safety.

Assoc. City Engineer John Daghljan outlined the proposed procedures and the work, including erosion controls. The stones and soil taken from the existing wall will be disposed according to the wishes of the property owner – either by removal to an appropriate location or placement and stabilization on the site. The DPW will grade and loam the new slope and place an erosion control blanket impregnated with grass seed. The slope has been designed for ease of maintenance by the homeowner while making the wall safe. The City believes that it is a satisfactory solution at modest cost. The equipment to do the work will be parked overnight at the bathhouse. It is DPW's intention to be finished with the project by mid-June to allow swimming to go forward safely at the bathing beach. Funding would come from the DPW budget, and the work would be done by DPW employees or a contractor. A lien would be imposed on the property for the cost of the work. The DPW would like the Order of Conditions to be issued to both the DPW and the property owner so that either can do the work.

Norm Richardson noted that the new slope and modified wall will increase the runoff into the lake as the stormwater will run over the top of the wall, unlike the existing condition where two courses of stone are above the grade to slow down the runoff and force it to infiltrate into the soil behind the wall. He also noted that the Commission usually prohibits the use of fertilizer and lawn chemicals. Commissioner Rooney responded that there is no plan to change the runoff characteristics and it would be appropriate to refrain from using fertilizer. Richardson indicated that the ConCom usually requires shrub and herbaceous materials to be planted between the work and the resource area to act as a filter strip and cut down on the overland flow. Ira Wallach said that this should not be a problem in that it's a standard condition needed to satisfy the Commission's concerns. Richardson suggested the use of shrubs and ground covers with wildlife habitat value such as berries to be planted far enough back from the wall so that roots do not become an issue in the future. He also questioned whether there should be a

railing or a lip of stones since the top of the wall will be about 3 – 1/2 feet above the ground below. Rooney responded that a railing would be the homeowner's responsibility.

The vote was 4:0 to issue the standard Order with a condition for a shrub and herbaceous material planting plan to come for approval by staff. In addition, members requested a small cap of stone on the top of the wall, but above the finished grade of the new slope to control runoff.

5. 60 Oldham Road: Continuation of Public Hearing on Notice of Intent for replacement of failed retaining wall adj. Cheesecake Brook

Report: The owner satisfied you re this Order; however, no DEP number was received. As you requested, staff sent DEP the info needed to get a number and it has not been issued as of this writing.

Meeting: DEP issued a number and members signed the standard Order.

6. Announcements & General Business:

750 Saw Mill Brook Parkway: Additional information and request for minor modification of work dates

Report: LEC returns with a request for permission to work in certain locations away from the vernal pools between March 1 and March 15. The explanation is enclosed; I have forwarded it to Jon Regosin for comment. No comment received as of this writing.

Meeting: Ann Marton from LEC showed the new work area for the period 3/1 and 3/15 and requested permission to work during that time period. Jon Regosin provided an opinion that it would be acceptable during that period if the trenches were filled in at the end of the day and no activity is observed by the consultants. Members agreed to allow the modification. Staff will so notify the property owner.

Lot 7 Kessler Woods: Request for minor modification of approved footprint

Report: They want a minor modification of the footprint, so they are making the house 18" larger across the front of the house and a portion of the rear. In return, to balance their impervious surface, they are reducing the driveway and patio. Calc sheet enclosed. I have a red-lined plan, but it isn't suitable to send.

Meeting: Joe Porter of VTP Associates showed red-lined plans to the members indicating the requested footprint changes. After discussion, members agreed that the changes are minor and voted to send a letter of approval. A revised plan should be presented to the Commission for its records. The chart showing the approved impervious surface calculations should be part of the Building Permit approval process.

Crystal Lake: Update from Commissioner Towle re wood retaining wall

Report: Commissioner Towle was not able to update you on the wood retaining wall last month due to real estate negotiations (which appear to have ceased at this point). Her update letter is enclosed and she will be present for the 20 Rogers Street wall matter and can answer questions.

Meeting: The letter re the current status was read. Staff commented that while there are possibilities for the land at #20 Rogers St., Parks & Rec has decided to allow the wall to remain as allowed by the Commission. Norm Richardson commented that he believes this wood retaining wall issue should not go on forever.

Road Salt: Discussion with DPW Commissioner Rooney

Report: Everyone expressed concern re the amount of salt being used on the roads this winter and staff requested that Bob Rooney for a discussion. Some members want a discussion, others want to discuss it among themselves first and invite him to a subsequent meeting. I requested clarification, but as of this writing have not heard back from anyone. By the time of the meeting this item may have been changed as the wishes of the members are clarified for staff.

Meeting: The issue was not clarified and members decided to wait until next meeting when more members will be present.

Dog Park Task Force: Discussion of comments

Report: Discussion of the report and the proposed ordinance. Rachel Freed will propose language for the missing piece re complaints and how they are handled.

Meeting: Members decided to wait until next meeting when more members will be present.

Pending enforcement actions: update

Brierfield Road – A property owner from Verndale Avenue is dumping on his rear vacant lot which abuts an unconstructed portion of Brierfield Road (paper street) in the floodplain – its a short wooded stretch of what would have been the street had it been finished. The Health Dept. and I are teaming on this one because of the type of dumping. I wrote a letter giving him until the spring thaw to get rid of the stuff as it is currently frozen in place. Health will send their letter once the spring thaw occurs.

Meeting: Members agreed that waiting for better weather is acceptable.

0 Carlisle Street – I sent a confirming letter to the Murphys and Steve Vona regarding the rock removal next to Webster. The work that was promised by Friday, 2/2, has not been completed and no response has been given.

Meeting: Members were concerned that the representations made were false. Staff was directed to send a letter advising the owner to complete the tasks on the list and to remove the material from ConCom property.

January 25, 2007 Meeting Minutes for approval - Approved.

Email exchanges – As Ira Wallach requested I wrote to the Law Dept. for clarification. They have requested more info and I haven't had time to get it together. Ouida Young did say that this issue is getting a lot of review lately and to be very careful.

Certificates of Compliance: None requested to date.

PENDING ISSUES – and Doug's idea of preparing a list for research by members.
Salt on roadways.

Pressure treated wood – uses in soil, wet areas, water

Swimming pools – draining water into catch basins which discharge into wetlands, waterways, waterbodies